

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

KATHLEEN REGINA MAESTAS,

Plaintiff,

v.

No. CV 17-679 CG

NANCY A. BERRYHILL,
Acting Commissioner of the Social
Security Administration,

Defendant.

**ORDER AWARDING ATTORNEY FEES PURSUANT TO
THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)**

THIS MATTER is before the Court on Plaintiff's *Motion for Attorney Fees*

Pursuant to the Equal Access to Justice Act, With Memorandum in Support, (Doc. 24),
filed September 14, 2018, in which Plaintiff requests an award of attorney fees in the
amount of \$9,441.40. On September 18, 2018, Plaintiff filed a *Stipulation of Award of
Attorney Fees Under the Equal Access to Justice Act, (Doc. 25)*, stating that the parties
have agreed to an award of \$8,200.00 in attorney fees. Having considered the Motion,
the stipulation, and the relevant law, the Court finds that Plaintiff's Motion should be
GRANTED in part.

IT IS THEREFORE ORDERED that Plaintiff's *Motion for Attorney Fees Pursuant
to the Equal Access to Justice Act, With Memorandum in Support, (Doc. 24)*, be
GRANTED in part, and that Plaintiff be awarded \$8,200.00 in attorney fees pursuant to
the Equal Access to Justice Act, 28 U.S.C. § 2412(d). See *Astrue v. Ratliff*, 560 U.S.
586, 591-93 (2010) (providing EAJA fees are paid to the prevailing party, not the
attorney).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b), Section 206(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE